

REMARKS

By this amendment, claims 1-23, 33-45, 47, 48, 50, and 51 are pending, in which claims 24-32, 46, and 49 were previously canceled without prejudice or disclaimer, claims 1, 3, 4, 12, 14, 18-23, 33-39, 41, 42, and 51 are currently amended, and no claims are withdrawn from consideration or newly presented. No new matter is introduced.

The Office Action mailed March 16, 2010 rejected claim 39 under 35 U.S.C. § 101, claims 41 under 35 U.S.C. § 112, second paragraph, claims 1, 3-12, 14-23, 33-39, 41-45, 47, 48, 50, and 51 under 35 U.S.C. § 102(b) as anticipated by *Russek* (US 5,319,355), claim 40 as obvious under 35 U.S.C. § 103 based on *Russek* (US 5,319,355), and claims 2 and 13 as obvious under 35 U.S.C. § 103 based on *Russek* (US 5,319,355) in view of *Haller et al.* (US 2002/0052539).

In response to the § 101 rejection, Applicants have amended claim 39, which is now directed to a “computer-readable storage medium having a program product recorded thereon.” Thus, the program code is included on a computer readable medium, and the rejection is overcome.

Claim 41 has been amended to recite that the “monitoring device” comprises a broadcast communication device. Accordingly, the rejection under 35 U.S.C. § 112, second paragraph, is overcome.

Applicants respectfully traverse the anticipation rejection of claims 1, 3-12, 14-23, 33-39, 41-45, 47, 48, 50, and 51 and the obviousness rejection of claim 40 over *Russek*, as *Russek* fails to disclose “receiving at a mobile wireless event handling device” and/or a “first signal comprising at least a general broadcast emergency signal,” as positively recited in independent claim 1, and similarly recited in independent claims 12, 33, and 39. The Office Action (page 4)

refers to column 3, line 58-column 4, line 6, as disclosing “receiving at a mobile wireless event handling device.” The referenced portion reads as follows:

The non-audible communications system in accordance with the invention is comprised of an electronically actuated signal generator attached to a device sensor(s) connected to any appropriate medical equipment and/or patient monitoring or operating room equipment, at least one master alarm control and display unit adapted to communicate with the signal generators and/or with other master alarm control units and a central host controller. Each master alarm control device can be removed from the patient area and located preferably at a nurses' station. In some applications, the master alarm control can be located in the operating room, the emergency room or at any other desired location. Multiple master alarm control devices can be tied together in a network. An appropriate group of pagers that have non-audible annunciators are also part of the system. (Emphasis added)

According to the above passage, an emergency signal is received by a master alarm control unit which is located at a nurses' station, in an operating room, or in the emergency room. All locations of the master alarm control unit are in a hospital. Nowhere in the cited passage does *Russek* describe a mobile wireless event handling device for receiving the emergency signal from the patient's monitor.

The Office Action (page 4) refers to “a coded pulse signal is transmitted from the patient to master units” (*Russek*, column 4, lines 51-65, and column 5, lines 60-68) as satisfying the claimed “first signal comprising at least a general broadcast emergency signal.” The cited portions of columns 4 and 5 state:

The alarm signal generator transmits a coded pulse signal in response to a sensor(s) signal indicating a problem and provides various identification information such as particular patient and/or equipment type and location for display on the master control and display unit. Immediate transmission from the master unit or units then occurs to an appropriate group of pagers carried by doctors, nurses and technicians. In addition to the alarm generator, an information communications control module can be arranged on the medical device so that the same information available to the medical equipment operator can also be communicated to the master control and display unit or units and to

the pagers through a suitable cable connection or through an RF-based receiver/transmitter.

Another important element of the invention is an alarm signal interrupt switch located both on the sensor(s), which is attached to the equipment at the site of the patient, to the alarm signal generator which is adjacent to the medical equipment and/or on the master control device. The alarm signal generator, once activated by a patient problem or equipment defect, will not stop until one of the above-noted interrupt switches is unlocked and manually actuated, insuring that the patient will not be inadvertently ignored or forgotten.

As best understood, these passages describe an alarm signal generator, which may include an alarm signal interrupt switch, transmitting a specific (coded) alarm signal to one or more master control units. The signal is targeted for a master control unit. The claims, however, recite a “general broadcast emergency signal.” “General” is defined as “not specific,” or not for specific recipients. Likewise, “broadcast” refers to transmission to a group of unspecified recipients. Accordingly, although *Russek*’s coded signal sent to a master control device is an emergency signal, it is not a general broadcast emergency signal.

"It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim." *In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986). *See also Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick*, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984). Since *Russek* fails to disclose a general broadcast signal nor a mobile wireless event handling device, *Russek* cannot anticipate independent claims 1, 12, 33, and 39 or the claims dependent therefrom, claims 3-11, 14-23, 34-38, and 40-45, 47, 48, 50, and 51. Applicants, therefore, respectfully request withdrawal of the rejection under 35 U.S.C. § 102(b) of claims 3-11, 14-23, 34-38, and 41-45, 47, 48, 50, and 51. Further, no rationale has been provided in the Office Action for modifying

Russek to receive a general broadcast emergency signal at a mobile wireless event handling device, claim 40 is not rendered obvious by *Russek*, and the rejection cannot be sustained.

In addition claims 42, 43, and 45, which depend from independent claims 1 and 12, correspondingly, not only are allowable for the reasons put forth for the allowability of independent claims 1, 12, 33, and 39, but also are allowable on their own merits; these claims recite “general broadcast emergency signal is adapted for receipt by all mobile wireless event handling devices within communication range of the monitoring device.”

The Office Action cites column 5, lines 60-column 6, line 1, and column 7, lines 65-68, as disclosing this features. However, the cited portion of column 5 merely describes an interrupt switch and makes no mention of one mobile wireless event handling device, no less multiple such devices, within communication range of the monitoring device. The cited portion of column 7 states, “Alternatively, communications from generator 12 can be RF-based through conventional RF emergency bands (such as those designated for ambulances) or for emergency medical personnel.” Again, no mention is made of mobile wireless event handling devices. The cited portion merely describes the means (RF emergency bands) by which the emergency signal is sent to master alarm control 14 which is “typically located at a nurse’s station.” The nurse’s station is clearly not a mobile wireless event handling device, no less all mobile wireless event handling devices within communication range of the monitoring device. Accordingly, the anticipation rejection of claims 42, 43, and 45 cannot be sustained.

With regard to the rejection of claims 2 and 13 over the combination of *Russek* and *Haller*, *Haller* does not fill in the gaps of *Russek*, and thus fails to disclose a general broadcast signal or a mobile wireless event handling device. Therefore, the obviousness rejection of claims 2 and 13 cannot be sustained.

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

Date

Phouphanomketh Ditthavong
Attorney/Agent for Applicant(s)
Reg. No. 44658

Anita Pellman Gross
Attorney for Applicant(s)
Reg. No. 63325

918 Prince Street
Alexandria, VA 22314
Tel. (703) 519-9952
Fax (703) 519-9958